

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JESSE MEANS,)	
)	
Plaintiff,)	CIVIL ACTION NO. 05-107E
)	
v.)	HON. SEAN J. McLAUGHLIN
)	U.S. DISTRICT JUDGE
UNITED STATES OF AMERICA,)	
<u>et al.</u> ,)	HON. SUSAN PARADISE BAXTER
)	U.S. MAGISTRATE JUDGE
Defendants.)	
)	ELECTRONICALLY FILED

DEFENDANTS' MOTION TO CONDUCT EXAMINATION OF PLAINTIFF
AND SECOND MOTION FOR EXTENSION OF DISCOVERY PERIOD

AND NOW, come Federal Defendants, the United States of America, et al., through counsel, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Paul D. Kovac, Assistant United States Attorney for said district, and respectfully move the Court for an Order permitting Defendants' expert to conduct an examination of Plaintiff for discovery purposes. Additionally, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Defendants move the Court for a 45-day extension of the discovery period. Currently, discovery in this case is scheduled to close on November 1, 2006. The granting of this request would extend the discovery until December 15, 2006. In further support of this Motion, Defendants aver as follows:

1. Plaintiff, a federal prisoner, filed a Complaint pursuant to the Federal Tort Claims Act, alleging that he sustained injuries due to a leaky roof at the prison that caused

him to slip and fall. Plaintiff has also alleged that prison medical staff have been indifferent to his medical needs.

2. This Court previously extended discovery in order for Defendants to seek expert consultation and due to the fact that Plaintiff, at the last minute, rejected a settlement offer.

3. The pro se Plaintiff still has not taken any discovery in this case. Defendants, on the other hand, have already interviewed numerous witnesses at FCI McKean and have taken Plaintiff's deposition.

4. Additionally, Defendants have hired a neurologist as an expert witness to review the medical record in this case. The doctor has completed his initial review and has indicated that a physical examination of Plaintiff would further assist him in rendering a medical opinion in this case. However, due to the expert's schedule and the coordination necessary to transport a prisoner to the expert's office in Erie, Pennsylvania, Defendants are requesting an additional 45 days to complete discovery and conduct an examination of Plaintiff. Because Plaintiff is pro se, Defendants are also requesting that the Court grant permission to conduct this medical examination because the results will shed significant light upon the extent of Plaintiff's injuries, if any, and assist the parties in resolution of this matter.

WHEREFORE, Federal Defendants respectfully request that the Court issue an Order permitting Defendants' expert to physically examine Plaintiff and to extend the discovery period by 45 days, or until December 15, 2006. A proposed Order is attached.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

s/Paul D. Kovac
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Dated: October 23, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Defendants' Motion for Examination and Second Extension of Discovery Period was electronically filed and mailed, postage-prepaid, this 23rd day of October, 2006, to the following:

Jesse Means, Plaintiff *pro se*
Reg. No. 38021-060
FCI McKean
Post Office Box 8000
Bradford, PA 16701

s/Paul D. Kovac
PAUL D. KOVAC
Assistant U.S. Attorney